

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

**FILED**

**MAR 16 2006**

CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS

MELVIN L. LAIRD,	)	No. 04-36133
	)	
Petitioner-Appellant,	)	D.C. No. CV-03-01122-MRH
	)	
v.	)	<b>MEMORANDUM*</b>
	)	
JEAN HILL, Superintendent, SRCI,	)	
	)	
Respondent-Appellee.	)	
_____	)	

Appeal from the United States District Court  
for the District of Oregon  
Michael R. Hogan, District Judge, Presiding

Submitted March 6, 2006\*\*  
Portland, Oregon

Before: FERNANDEZ, TASHIMA, and PAEZ, Circuit Judges.

Melvin L. Laird appeals the district court's dismissal of his habeas corpus petition. The district court determined that Laird had not filed within the one year

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously finds this case suitable for decision without oral argument. Fed. R. App. P. 34(a)(2).

statute of limitations. See 28 U.S.C. § 2244(d)(1). We affirm.

Laird asserts that he is entitled to equitable tolling because of his lawyer's negligent advice regarding the statute of limitations.<sup>1</sup> However, it is well settled that mere negligent advice about the statute of limitations will not support a claim of equitable tolling. See Miranda v. Castro, 292 F.3d 1063, 1066–67 (9th Cir. 2002); Frye v. Hickman, 273 F.3d 1144, 1146 (9th Cir. 2001); see also Spitsyn v. Moore, 345 F.3d 796, 800 (9th Cir. 2003). Thus, the district court did not err.<sup>2</sup>

AFFIRMED.

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<sup>1</sup> The district court did not grant a certificate of appealability on this issue, but the parties agree that it probably meant to do so, and they have fully briefed it. We, therefore, expand the certificate of appealability to include the issue. See 9th Cir. R. 22-1(e) & advisory committee note; Schardt v. Payne, 414 F.3d 1025, 1032 (9th Cir. 2005).

<sup>2</sup> Laird has not briefed the issues mentioned in the certificate of appealability. Those are waived. See Jones v. Wood, 207 F.3d 557, 562 n.2 (9th Cir. 2000).